

**Exhibit A**

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Page 1

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:  
MOUNTAIN EXPRESS OIL COMPANY, et al.,  
Debtors.

Case No. 23-90147 (DRJ)

Chapter 11

Auction

Moderated by Geoffrey Richards  
Friday, August 4, 2023  
6:09 p.m. EDT/5:09 p.m. CDT

Remote Proceeding

320 Park Avenue, 12th Floor  
New York, New York 10022

Reported by: Nicole Veltri, RPR, CRR

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1  
2 APPAREANCES:  
3  
4

5 RAYMOND JAMES & ASSOCIATES  
6 320 Park Avenue, 12th Floor  
7 New York, New York 10022  
8 BY: GEOFFREY RICHARDS, ESQ.  
9 SCOTT GARFINKEL, ESQ.  
10 ROGER WOODMAN, ESQ.  
11 BEN BROWNLOW, ESQ.  
12 JAKE WAINWRIGHT, ESQ.  
13 MICHAEL MACELUCH, ESQ.

14  
15 PACHULSKI STANG ZIEHL & JONES LLP  
16 10100 Santa Monica Boulevard, 13th Floor  
17 Los Angeles, California 90067-4003  
18 BY: JEFF POMERANTZ, ESQ.  
19 JEFFREY DULBERG, ESQ.

20 FTI CONSULTING  
21 166 Avenue of the Americas, 15th Floor  
22 New York, New York 10036  
23 BY: MICHAEL HEALY

24  
25 GREENBERG TRAURIG LLP  
Terminus 200  
3333 Piedmont Road NE, Suite 2500  
Atlanta, Georgia 30305  
BY: JOHN ELROD, ESQ.  
SHARI HEYEN, ESQ.

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1  
2 List of Attendees:

3 John Tibus, as financial adviser to  
4 the agent

5 Paula Davis, First Horizon Bank

6 Donald Turbyfill, Ford Motor Credit  
7 Company LLC

8 Ron English, JT Petroleum LLC

9 Alex Rhim, Realty Income

10 Sam Nasser, SMD Oil

11 Tom Terry, Sunoco

12 Chip Damico, Sunoco

13 Adam Rosen, the Creditors' Committee

14 Julius Schwarz, GPM Investment/ARKO  
15 Corp.

16 Eyal Nuchamovitz, GPN

17 Arie Kotler, ARKO Corp./GPM

18 Investment

19 Travis Booth, GPM Investments

20  
21 \* \* \*

22  
23  
24  
25

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1                   Proceedings

2                   MR. RICHARDS: Good evening.

3                   My name is Geoffrey Richards, and I'm  
4                   the senior managing director of  
5                   Raymond James, the Debtors'  
6                   court-approved investment banker.  
7                   I'm joined by a number of other  
8                   representatives both from my firm as  
9                   well as Pachulski Stang, the Debtors'  
10                  court-approved law firm, and FTI; and  
11                  what I would like to do is to ask the  
12                  representatives first from Raymond  
13                  James to identify themselves, then  
14                  the Pachulski team, and then the FTI  
15                  team, please.

16                  MR. GARFINKEL: Scott Garfinkel  
17                  from Raymond James.

18                  MR. WOODMAN: Roger Woodman,  
19                  Raymond James.

20                  MR. BROWNLOW: Ben Brownlow,  
21                  Raymond James.

22                  MR. WAINWRIGHT: Jake  
23                  Wainwright, Raymond James.

24                  MR. MACELUCH: Michael  
25                  Maceluch, Raymond James.

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1                   Proceedings

2                   MR. POMERANTZ: Jeff Pomerantz,

3                   Pachulski Stang.

4                   MR. DULBERG: Jeffrey Dulberg,

5                   Pachulski.

6                   MR. RICHARDS: And then I think

7                   the FTI team.

8                   MR. HEALY: Michael Healy, FTI

9                   Consulting.

10                  MR. RICHARDS: Okay.

11                  And then with that, if I can  
12                  ask the other people on the line to  
13                  identify themselves and which  
14                  constituents they represent, please.

15                  MR. ELROD: Good evening. It's  
16                  John Elrod, of Greenberg Traurig LLP,  
17                  on behalf of First Horizon Bank as  
18                  DIP agent.

19                  MS. HEYEN: Shari Heyen,  
20                  Greenberg Traurig, on behalf of First  
21                  Horizon, the agent.

22                  MR. TIBUS: John Tibus, as  
23                  financial adviser to the agent.

24                  MS. DAVIS: Paula Davis, First  
25                  Horizon Bank.

## Proceedings

MR. TURBYFILL: Donald

Turbyfill on behalf of Ford Motor  
Credit Company LLC.

MR. ENGLISH: Ron English for  
JT Petroleum LLC.

MS. RHIM: And this is Alex Rhim on behalf of Realty Income, the successor to 42 ARLA (phonetic) and 42 OKLA (phonetic) are the parties indicated as the contract parties.

MR. NASSER: This is Sam  
Nasser, SMD Oil.

MR. RICHARDS: Tom Terry, are you on?

MR. TERRY: Yes. Tom Terry is on from Sunoco, as is Chip Damico, which is D-A-M-I-C-O.

MR. RICHARDS: And then I also  
see -- sorry, again, this is Geoff  
Richards. I also see a  
representative from the Creditors'  
Committee, Adam Rosen; is that right?

MR. ROSEN: Yes. Adam Rosen with Province, financial adviser to



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MR. POMERANTZ: Jeff, there's a  
215 number, did we get an appearance  
from them? Doesn't say a name.

MS. SCHWARZ: By the way, I  
assume Arie and Eyal were invited. I  
assume they should be getting on in a  
second if they are not on yet.

MR. POMERANTZ: Is the 215 --

MR. RICHARDS: I see Eyal joining.

MR. NUCHAMOVITZ: We didn't get  
the invite.

MR. RICHARDS: I'm sorry, as we talk, just to try to make it efficient for the court reporter. This is Geoff Richards. As people speak, we should identify ourselves to try to make it as easy for the court reporter as we can. The person who is at the 215-901-3991 number --

MR. DAMICO: That's me, Chip  
Damico with Sunoco LP.

MR. RICHARDS: Thank you very  
much, Chip.

## Proceedings

And then, Eyal, I notice that you're on. Can you just identify yourself and who you're with for the record, please?

MR. NUCHAMOVITZ: Yes, Eyal  
Nuchamovitz from GPN, E-Y-A-L.

MR. RICHARDS: Again, Geoffrey Richards. Is there anybody else who has joined the call and not identified themselves?

MR. NUCHAMOVITZ: I know that Arie is trying to call in. I see he's connecting. Travis is connecting, too.

MR. RICHARDS: Again, Geoff Richards. I think we've had two additional people who joined from GPM/ARKO.

Arie, if I could ask you to identify yourself and who you're with; and then, Travis, if I can ask you to do the same, please.

MR. KOTLER: Yes, this is Arie  
Kotler, A-R-I-E, last name.

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K-O-T-L-E-R, with ARKO Corp./GPM

## Investment.

MR. BOOTH: This is Travis  
Booth, B-O-O-T-H; and I am with GPM  
Investments.

MR. RICHARDS: Anyone else who has joined the call who has not yet identified themselves?

(There was no response.)

MR. RICHARDS: All right.

So we are here to conduct the auction as contemplated by that certain Order approving bid procedures for sale of the Debtors' assets, approving bid protections, scheduling certain dates with respect thereto, approving the form and manner of notice thereof, and approving contract assumption and assignment procedures entered by the United States Bankruptcy Court for the Southern District of Texas on June 22nd, 2023, at Docket No. 701.

I will refer to this Order as

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the Bid Procedures Order. Pursuant to the Bid Procedures Order, July 21st was established as the deadline to submit bids; and July 28th was established as the date of the auction.

The Debtors received 12 bids on or before the July 21st bid deadline and four additional bids following the July 21st bid deadline. Certain of the bids were for the entire business, and others were for discrete groups of assets. While the bids in totality indicated significant interest in the Debtors' assets, it included bid values ranging from \$500,000 to \$97 million. None of the bids were qualified bids as defined in the Bid Procedures Order.

Based upon consultation with  
the Lenders and the Creditors'  
Committee, the Debtors needed more  
time to discuss the bids with the

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2                   different bidders in order to attempt  
3                   to eliminate contingencies in those  
4                   bids and to negotiate documentation  
5                   in an effort to convert those bids  
6                   into qualified bids.

7                   Accordingly, on July 27th, the  
8                   Debtors filed a Notice continuing the  
9                   auction until August 2nd. That  
10                  document appears at Docket No. 1099.  
11                  Subsequently, the Debtors filed the  
12                  Notice extending the dates for  
13                  objections to adequate assurance and  
14                  objections to the sale until  
15                  August 4th and August 7th  
16                  respectively.

17                  Prior to August 2nd, Raymond  
18                  James had conversations with  
19                  virtually all of the bidders to  
20                  further understand their bids,  
21                  discuss contingencies in those bids,  
22                  understand how the bidders were  
23                  valuing the assets, explore whether  
24                  there was flexibility on what assets  
25                  those bidders were proposing to

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acquire, and the price those bidders were willing to pay.

The goal was to determine whether there were bids or groups of bids that were competitive with one another as well as complementary to one another. It could be grouped together to maximize value and present an alternative to WholeCo bids that have been submitted.

Several of the many challenges the Debtors faced in the process was a substantial overlap amongst certain bids, the challenges in breaking up the mass releases for certain of the bids, the requirement in many of the bids for substantial lease concessions from different landlords, and the time required to close.

As a result of these discussions, six parties indicated that they intended to participate in the auction. Of those bids, only one was a bid for the whole company, or a

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WholeCo bid, and the rest were for discrete groups of assets. The Debtors' professionals also asked that representatives of the Debtors' REITs, their major landlords, be available during the auction to meet with bidders, either in person or virtually, to discuss the terms on which those bidders would be willing to restructure their leases.

The parties convened at Raymond James' offices at 10 a.m. on August 2nd. The Debtors' professionals met with each of the bidders and the REIT landlords and explained that over the next several hours, the Debtors would be facilitating discussions between bidders and landlords, meeting with bidders to explore ways that bidders might be able to increase their bids and approach the WholeCo bidder to encourage the carve-out of certain assets from that bid to allow the

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Debtors to try to maximize value by adding partial lot bids to the WholeCo bid.

After extended negotiations with all of the parties and with many discussions still ongoing, the Debtors' professionals informed all the parties that it was unlikely that the auction would be able to commence on August 2nd.

Thereafter, the Debtors' professionals kept parties, as well as the Committee and landlord advisors, updated throughout the day; and during the day, the Debtors' professionals had more than 20 meetings with the various parties all with the goal of maximizing value of the Debtors' assets and trying to increase certainty of close.

Negotiations with parties continued throughout the evening, and the parties, as well as the Committee and Lender advisers, were informed

## Proceedings

that the auction would recommence on Thursday, August 3rd, at 11 a.m.; and then throughout the day, that time was postponed as negotiations continued.

The auction was rescheduled for Friday, August 4th, at 10 a.m.; and we've continued the auction throughout the day today while parties worked on developing an actionable bid. The discussions among the Debtors' professionals and the various bidders revealed certain realities which affected the auction dynamic and constrained bid value.

First, ARKO, the WholeCo bid whom the Debtors are going to announce in a few minutes as the party that has submitted the highest and best proposal declined to carve-out assets from its bid in order to enable the Debtor to sell those assets to other bidders as a means of potentially increasing

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overall value.

Second, many of the bidders' contingencies relating for lease concessions were not satisfied.

Third, several parties revealed material time to close the transaction, or rather required material time to close the transaction; and the Lenders indicated that they were unwilling to extend any further financing to reach a closing.

And, fourth, because the debtors are unable to break their mass release with Oak Street, absent Oak Street and for that matter the other landlords' consent, this prevented partial bids seeking only a small portion of REIT portfolios from being actionable.

As a result, the Debtors focused their efforts on negotiating a WholeCo bid with ARKO and seeking significant concessions from Oak

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2                   Street in connection therewith.

3                   As a result of these  
4                   protracted, constructive, and at  
5                   times contentious negotiations is a  
6                   Letter of Intent which is in the  
7                   process of being finalized but has a  
8                   number of key features.

9                   Before I describe those  
10                  features, Jeff Pomerantz, is there  
11                  anything that you want like to add  
12                  before I go through that, please?

13                  MR. POMERANTZ: No. It's in  
14                  the process of being finalized.  
15                  There isn't an agreement yet, but we  
16                  hope to have that finalized later  
17                  today and on the docket.

18                  MR. RICHARDS: Thank you. With  
19                  respect to the key features, first is  
20                  a purchase price of approximately  
21                  \$49 million for all assets except the  
22                  Debtors' owned real estate and  
23                  pre-petitioned litigation claims  
24                  against all parties except Oak Street  
25                  and ARKO, also known as GPN.

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2                   Second, a \$13-and-a-half  
3                   million nonrefundable deposit would  
4                   be available to the Debtors to fund  
5                   operations and professional fees  
6                   until a closing not later than  
7                   October 31st, 2023. Approximately  
8                   \$16 million would be available at  
9                   closing from which to pay certain  
10                  claims which are subject to the DIP  
11                  carve-out and also to pay certain  
12                  excise taxes among other  
13                  administrative claims.

14                  Importantly, Raymond James has  
15                  agreed to reduce its M&A fee by \$1  
16                  million subject to recapture if there  
17                  are cash flow savings prior to close;  
18                  and Pachulski and FTI have agreed not  
19                  to be paid \$2 million at closing in  
20                  fees which exceeded the budget. Up  
21                  to \$20 million at close to pay the  
22                  Lenders. The Lenders would also be  
23                  entitled to any surplus funds not  
24                  spent through the budget after  
25                  Raymond James has paid its \$1 million

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Oak Street would contribute to ARKO \$18.75 million, which will be used to pay a portion of the purchase price. Oak Street would defer three months of rent beginning in August until closing. All other landlords would be given the option of deferring rent through closing, agreeing to restructure their leases and waive cure claims or the leases would be rejected at the end of August.

The foregoing transaction of which that is a summary, as Mr. Pomerantz indicated a few minutes ago, the further details of which are in the process of being finalized and will be filed with the Court, provides the Lenders with up to a \$20 million cash recovery on its new money DIP loan, plus upside related to assets that are retained under this transaction structure.

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The Debtors believe that this bid is superior to a liquidation or conversion. It would preserve thousands of jobs and more than one hundred small businesses, and the Debtors intend to proceed with this transaction at the court hearing on Monday.

Mr. Pomerantz, is there anything you would like to add to my comments?

MR. POMERANTZ: Yes. Let me just clarify that last comment.

We will not seek approval of the transaction on Monday. We are going to provide the Court with an update regarding the process. We're going to provide the Court, obviously, with a Letter of Intent; and then we are going to discuss a path for finalizing an Asset Purchase Agreement and coming back to Court for further Court approval. So any objections people have to the sale,

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to assumption and assignment of their contracts, or to the cure amounts will be preserved; and they will be provided sufficient time to file and prosecute those objections if they can't be resolved.

MR. TIBUS: This will be documented and sent over, you said around tonight?

MR. POMERANTZ: That's our intent and goal. We are at the final stages, a couple issues left to resolve; but we will send it over to you, John, and the Lenders, in advance of filing it with the Court.

MR. ELROD: This is John Elrod on behalf of Lenders. The Lenders object to the conduct of the auction as it was not conducted in accordance with the bid procedures. We object to the characterization that the Lenders were consulted regarding the adjournment of the auction. The Debtors did this without the consent

# Proceedings of the DIP agent.

The Debtors' counsel has acknowledged that there are no qualified bidders and it has done -- and the Debtors' investment banker has acknowledged that on the record here today. The Debtors, moreover, did not consult with the consultation parties during the course of the auction as required under the bid procedures.

Based on what we know today as the bid has been described, it is clear that the bid does not pay the secured Lenders in full. The DIP agent, therefore, objects to the Debtors' proposed sale. There are no definitive documents relating to the structure of the bid. There's no Asset Purchase Agreement for us to review as of today. And, therefore, we reserve all rights until we see the final documents.

MR. POMERANTZ: This is Jeff

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Pomerantz. Objections are noted, and I will not respond in this forum to these statements and assertions you've made and reserve all our rights to challenge you to these statements you've made today on the record.

MR. RICHARDS: So Geoff Richards again. Unless, Mr. Pomerantz, you think there is anything else that we ought to cover, this, I think, concludes today; and we appreciate everyone's time and patience over the preceding days.

Mr. Pomerantz, is there anything to add?

MR. POMERANTZ: Jeff Pomerantz,  
nothing else.

MR. RICHARDS: Thank you all  
for your time this evening.

Again, we appreciate it very much. I think, Ms. Veltri, we're off the record.

\* \* \* \*

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(Whereupon, at 6:30 p.m., the

Proceedings were concluded.)

o o o o

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# C E R T I F I C A T E

STATE OF NEW YORK )  
                       :  
                       SS.:  
COUNTY OF SUFFOLK )

I, NICOLE VELTRI, RPR, CRR, a Notary  
Public for and within the State of New  
York, do hereby certify:

That the within is a true and accurate transcript of the proceedings taken on August 4, 2023.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this August 4, 2023.

Nicole Veltre

NICOLE VELTRI, RPR, CRR

[&amp; - arie]

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**[competitive - documents]**

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